

CHAPTER NO. 164

SENATE BILL NO. 2

By Jackson, Herron, Burks, McLeary

Substituted for: House Bill No. 3

By Shepard

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 47, Chapter 18, relative to price gouging during medical emergencies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following language as a new part:

Section 47-18-5201. Price gouging of vaccines and inoculations during a medical emergency is contrary to the public policy of the State of Tennessee.

Section 47-18-5202. Upon the proclamation of a medical emergency by the commissioner of health and continuing until such emergency is terminated, it is unlawful, for any person, including, but not limited to, a distributor, supplier, hospital, clinic, pharmacy or other health care provider, to charge any other person a price for a vaccine or inoculation that is grossly in excess of the price generally charged for the same or similar vaccine or inoculation in the usual course of business in the year prior to the year of the proclaimed medical emergency. It is an affirmative defense to prosecution under this part, which must be proven by a preponderance of the evidence, that such price increase was directly attributable to:

(1) Additional costs for labor or materials used to produce or provide the vaccine or inoculation; or

(2) Additional costs imposed on a hospital, clinic, pharmacy or other health care provider by a manufacturer, distributor or supplier of the vaccine. A medical emergency shall be terminated by proclamation of the commissioner of health when, in the discretion of the commissioner, the medical emergency has ended.

Section 47-18-5203. A violation of this part, or any rules and regulations promulgated hereunder, constitutes an unfair or deceptive act or practice under § 47-18-104(a). A civil action for violation of this part may be brought under Part 1 of this chapter.

Section 47-18-5204. The provisions of this part are intended to be in addition to and supplemental to the provisions of Part 51 of this chapter.

SECTION 2.

(a) The commissioner of health is authorized to promulgate rules and regulations to effectuate the provisions of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 27, 2005


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 17th day of May 2005


PHIL BREDESEN, GOVERNOR